IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.566 OF 2005

Mukhtar Islamuddin Sheikh & Ors. : Petitioners

V/s.

Mumbai Vegetable Market Unprotected Labour Board & Ors. : Respondents

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Mr.T.R.Yadav for the petitioners.

Mr.A.M.Khandekar for Mr.M.S.Topkar for respondent Nos.1 & 2.

Mr.S.M.Dixit, Special Counsel, for respondent No.3.

None present for respondent No.4.

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CORAM : H.L.GOKHALE & S.R.DONGAONKAR,JJ.

DATE : MARCH 13, 2006.

P.C.

1. Heard Mr.Yadav in support of this petition as also the learned counsel appearing for the respective respondents.

2. This petition filed under the Maharashtra Mathadi, Hamal and Other Manual Workers' (Regulation of Employment and Welfare) Act, 1969 is making a prayer that the petitioners be registered under the Scheme of respondent No.1 Board. The petitioners further seek a direction to respondent No.1 to constitute a Tolli of the petitioners and allot the same to respondent No.4.

3. A reply has been filed by the Secretary of respondent No.1 Board. He has pointed out therein that as per the directions of Mr.Justice S.M.Daud (Retd.), who was appointed as an Arbitrator to look into the wider controversy with respect to this Board, the Board put up a list of some 300 employees. That was in July 2003. Their names were examined as to whether they were working with any of the agents in the Market. After examination, it was seen that some 220 of them were, in fact, not working in the Market. The petitioners claim to be in this group of 220 persons. They have disputed the statements in the reply. These are matters of word against word and it is very difficult for this Court sitting under Article 226 of the Constitution to record that whatever has been stated by the Secretary of the Board is erroneous. If the petitioners want, they may make a representation to the Board. Mr.Khandekar has pointed out to us that even otherwise also, the petitioners were not entitled for registration. That is the plea taken in the reply. That apart, they may make a representation to the Board and follow it up with the Board.

4. The Writ Petition is dismissed.

H.L. GOKHALE, J.

S.R.DONGAONKAR, J.